

Exhibit 42

1 UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY
2 CIVIL ACTION NO. 2:16-CV-06576

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3 INDUSTRIA DE ALIMENTOS ZENU S.A.S.,

4 Plaintiff,

5 - against -

6 LATINFOOD U.S. CORP. D/b/a ZENU PRODUCTS
7 CO. And WILSON ZULUAGA,
8 Defendants/Counter Plaintiff.

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9 LATINFOOD U.S. CORP. D/b/a ZENU PRODUCTS
10 CO.,

11 Defendant/Counter Plaintiff.

12 and

13 INDUSTRIA DE ALIMENTOS ZENU S.A.S
and CORDIALSA USA, INC.

14 -----x

15 TRANSCRIPT of the stenographic notes of
16 the deposition of GREGORIO PEREZ RANGEL in the
17 above-entitled matter, as taken by and before ELLEN
18 J. GODINO, CRR, RPR, CRCL, held at the office of
19 THE INGBER LAW FIRM, 51 JFK Parkway, First Floor
20 West, Suite 159, Short Hills, New Jersey, on Monday,
21 September 9, 2019, commencing at 11:13 a.m.

22 * * *

1 Q. And how long have you been at El Mercado
2 De La Ocho?

3 A. It's going to be two years.

4 Q. Two years, okay.

5 And is it correct to say that you left
6 Food Fair Supermarket to become the manager at
7 El Mercado De La Ocho?

8 A. No.

9 Q. Where did you go between Food Fair
10 Supermarket and El Mercado De La Ocho?

11 A. When I went to El Mercado De La Ocho,
12 before that, I was working in a small supermarket.
13 It was a bodega called La Despensa.

14 Q. And how long were you there?

15 A. Around four months, at least.

16 Q. And where were you working before
17 La Despensa?

18 A. I don't remember where I was working. I
19 don't remember.

20 Q. And what was your title at Food Fair
21 Supermarket?

22 A. I was second to the manager.

23 Q. And who was the manager?

24 A. I don't remember the number -- sorry, I
25 don't remember the name of my coworker.

1 Q. So you were there for two years, but you
2 don't remember the name of the manager?

3 A. No, because we didn't get along very
4 well.

5 Q. And that was the reason why you left
6 Food Fair Supermarket. Is that correct?

7 A. Correct.

8 Q. When did you first become aware that
9 there was a lawsuit between Latinfood and Industria?

10 A. I learned of this lawsuit when a person
11 came to sell the brand Zenu, and so I purchased the
12 brand, and then later -- a week later, this woman
13 came in, and I asked her if she was selling this
14 brand, and she said yes.

15 I always ask for prices, and if it's a
16 good price, I'll buy. But it's not a good price, I
17 don't buy it. She came and said, let's do this.

18 As I said, my job is purchasing and all
19 I want is for the owner to be happy with the things
20 that I buy. Everything else, I don't know where it
21 comes from. I don't know.

22 Q. So I believe you said there was a woman
23 who came to sell Zenu product. Is that correct?

24 A. No, this was a man from another company.

25 Q. And do you know who that man was?

1 A. No, I don't remember.

2 Q. Was it somebody that worked for
3 Latinfood?

4 A. No, it was a different person from
5 another company.

6 Q. Have you ever heard about Latinfood?

7 A. Never.

8 Q. Do you know Mr. Zuluaga, Wilson, sitting
9 next to you?

10 A. Yes, years.

11 Q. Tell me when you first met him.

12 A. I don't remember the first time. I met
13 him when I was working at a supermarket, and I asked
14 him if he had Columbian products, and he said yes.

15 Q. Do you remember what year that was?

16 A. I honestly don't remember.

17 Q. What was his response to your question?

18 A. Demands?

19 Q. Yes.

20 A. He said he had the products, and had
21 affordable prices, and that's what I do; I look for
22 affordable prices.

23 Q. Did he mention the names of his
24 products?

25 A. No, he did not mention.

1 Q. And that was Wilson Zuluaga that came to
2 you and told you he had Columbia products. Is that
3 correct?

4 A. Correct.

5 Q. What is the nature of your relationship
6 with Mr. Zuluaga?

7 A. Well, what I do is that I ask him if he
8 has the product that a lot of people ask for and
9 carry in the store. What I do is that I call him or
10 the person working there. If they have it, great,
11 and if not, oh, well.

12 Q. Do you know what products and brands
13 Mr. Zuluaga sells?

14 A. Yes.

15 Q. And what are they?

16 A. He sells -- he sells the Chinese
17 sauces, the brand Fruco and other things, but the
18 Marco Zenu, I don't know.

19 Q. Have you ever heard of a company called
20 Industria de Alimentos Zenu?

21 A. No.

22 Q. Have you ever heard of a company by the
23 name of Cordialsa?

24 A. I think so.

25 Q. Do you know what products they sell?

1 A. Yes, they sell Nescafe, Chocolisto,
2 Nusitas, and I don't know what else.

3 Q. Do you know what the name of
4 Mr. Zuluaga's company is?

5 A. No.

6 Q. Did Mr. Zuluaga sell Food Fair meat
7 products?

8 A. I honestly don't remember.

9 Q. I think you said before that you've
10 heard of Cordialsa.

11 A. Yes. I have that company in my store.

12 Q. In your current store?

13 A. Yes.

14 Q. Were they also at Food Fair Supermarket?

15 A. Yes, they were.

16 Q. And were they -- and what products were
17 they providing to Food Fair?

18 A. I don't remember, but honestly they
19 provided many products. But as I said before, I was
20 only interested in prices.

21 Q. How many people work at Food Fair
22 Supermarket?

23 A. I don't remember, honestly, how many
24 people worked there.

25 Q. Were you the groceries manager at

1 Food Fair Supermarket?

2 A. Yes, I was the manager, but I was --
3 there's a line -- what do you call this line -- well,
4 all the products that came from Central America, all
5 over those countries, I was in charge of that.

6 Q. Did you purchase canned beans from
7 Mr. Zuluaga?

8 A. With this man?

9 Q. Yes.

10 A. With him, I don't know because one time
11 a salesman of his came in, and I asked him if he had
12 those products, and he said yes, and I asked for
13 prices.

14 Q. So you worked in the imported line at
15 Food Fair Supermarket. Is that correct?

16 A. Yes, correct.

17 Q. Who did you know from Cordialsa?

18 A. Mrs. Maria Elena.

19 Q. Did she come and visit the store?

20 A. Yes, correct.

21 Q. And how about Alejandro Yepes?

22 A. I honestly never met him.

23 Q. Have you ever seen Zenu or Ranchera in
24 any of your stores?

25 A. Honestly, no.

1 Q. Do you know if Zenu or Ranchera-branded
2 products are well known or famous in the
3 United States?

4 A. Honestly, no.

5 Q. Have you ever heard of a company called
6 Grupo Nutresa?

7 A. No.

8 Q. I think you said you knew
9 Elvis Rodriguez. Is that correct?

10 A. Yes, he's the owner.

11 Q. And how long do you know Mr. Rodriguez?

12 A. Since I started working. Honestly, I
13 didn't know him before. I was introduced to him the
14 first time he offered the job.

15 Q. And when did you meet him?

16 A. That day, when I started working.

17 Q. Was it 2014?

18 A. Approximately.

19 Q. And were you working at Food Fair in
20 2015?

21 A. I don't remember if I was or if I left
22 before.

23 Q. In connection with Exhibit 1, I'd like
24 you to turn to page 25. So I'd like you to read
25 numbers 18 through 20.

1 Are you able to read this, by the way --
2 it's in English -- or would you like to have it
3 translated.

4 A. I need it translated.

5 (Translator reads the document to the
6 witness.)

7 Q. That's good.

8 So were you working for Food Fair
9 Supermarket on or around July 15, 2015?

10 A. I don't remember.

11 Q. Did somebody -- do you know if somebody
12 came to you from Cordialsa, like it says here?

13 A. Well, a salesman did approach me, and
14 told me to remove that from the shelf. That's it.
15 He didn't say anything else. He just said that,
16 turned around and left. Nothing else.

17 Q. Who was the salesman?

18 A. I don't remember who it was.

19 Q. Was it from Cordialsa?

20 A. Yes.

21 Q. And what exactly did he tell you to
22 remove?

23 A. He only told me to remove that from the
24 shelf because he said that didn't have -- well, that
25 they were illegal. That's all.

1 Q. And were these Zenu-branded products?

2 A. Yes, Zenu.

3 Q. And had you ever seen this person
4 before?

5 A. No.

6 Q. Have you seen him since?

7 A. No.

8 Q. And what did you say when he told you
9 this?

10 A. I didn't say anything, I didn't answer.

11 Q. Was he angry when he said this?

12 A. No, he didn't say anything.

13 Q. Okay. Did you tell anybody about this,
14 like Mr. Rodriguez?

15 A. No, he didn't say anything.

16 Q. Did you tell Mr. Rodriguez about what
17 this salesman from Cordialsa had said about removing
18 Zenu products?

19 A. No, I did not say anything.

20 Q. Did you do as the Cordialsa salesman
21 instructed?

22 A. No.

23 Q. And why not?

24 A. Because I saw that the salesman went
25 into the office, and I didn't want to get involved

1 anymore.

2 Q. Whose office did he go into?

3 A. The store's office.

4 Q. Was that where Mr. Rodriguez's office
5 was located?

6 A. Yes, but he was not there.

7 Q. Who was there?

8 A. The secretary.

9 Q. Okay. How long was -- how long was
10 Mr. -- excuse me, the Cordialsa salesperson there
11 for?

12 A. Only around three minutes.

13 Q. Did you see Mr. Zuluaga at the store
14 that same day?

15 A. No, I did not see him.

16 Q. Do you know if Zenu-branded product were
17 removed from store shelves at Food Fair Supermarket?

18 A. No, because -- no, because they were
19 very few left; most of them are gone.

20 Q. Did Mr. Rodriguez ever speak to you
21 about Zenu-branded products?

22 A. No. I asked him if he had any.

23 Q. You asked who?

24 A. To the lady -- the saleslady.

25 Q. The saleslady from Cordialsa?

1 A. Yes, the man right here.

2 Q. Oh, he's with Latinfood.

3 And what did she say?

4 A. She said yes.

5 Q. Was this on the same day that you met
6 with that Cordialsa salesperson?

7 A. No. No.

8 Q. Did you ever have any conversations with
9 Mrs. Zuluaga about the Cordialsa representative
10 coming to Food Fair and saying that the products were
11 illegal and should be removed?

12 A. No.

13 Q. Did the Cordialsa salesperson explain
14 why the Zenu-branded products on your store shelves
15 at Food Fair Supermarket were illegal?

16 A. No, he did not explain.

17 Q. And was that your only conversation with
18 this Cordialsa representative?

19 A. Correct.

20 Q. Now, on March 13, 2019, we took the
21 deposition of Elvis Rodriguez here.

22 According to Mr. Rodriguez, on that same
23 day, the Cordialsa representative told him to remove
24 all Zenu products from his store shelves.

25 Are you aware of this?

1 A. No, I didn't know anything. He didn't
2 tell me.

3 Q. Did Mr. Rodriguez ever discuss anything
4 with you about Zenu Products?

5 A. No.

6 Q. Did the -- did the Cordialsa
7 representative -- salesperson mention that only his
8 company was allowed to sell Zenu-branded products?

9 A. No, he did not say anything.

10 Q. Have any customers ever told you that --
11 that Mr. Zuluaga's Zenu-branded products are not
12 legal?

13 A. Never.

14 Q. Did you remove any of Mr. Zuluaga's
15 Zenu-branded products on the store shelves?

16 A. No.

17 Q. Did you ever have any complaints about
18 Mr. Zuluaga's Zenu Products before?

19 A. No, none.

20 MR. INGBER: Okay. I want to take a
21 short break.

22 (A recess takes place.)

23 BY MR. INGBER:

24 Q. Did Food Fair have an aisle where it
25 sold Hispanic or Latin product?

1 A. Correct.

2 Q. Is that where Mr. Zuluaga's products
3 were being sold?

4 A. Correct.

5 Q. Was that -- did that include product
6 that was made in the U.S.?

7 A. No, we had products from different
8 countries, for example, Peru, Columbia, Mexico,
9 different countries.

10 Q. Did they sell Goya products there?

11 A. Yes, but that's a different aisle.

12 Q. Okay. What aisle was that?

13 A. Three.

14 Q. Was that considered an Hispanic aisle?

15 A. Yes, but those are made here in the
16 United States.

17 Q. Well, do you know where Mr. Zuluaga's
18 product was made?

19 A. Sorry?

20 Q. Do you know where Mr. Zuluaga's products
21 were made by any chance?

22 Do you have personal knowledge?

23 A. Honestly, no.

24 MR. INGBER: Okay. Thank you.

25 No further questions.

1 MR. BERMAN: I do have a few questions,
2 actually.

3 EXAMINATION BY MR. BERMAN:

4 Q. Just to introduce myself, my name is
5 Jeremy Berman, and I represent the plaintiff -- I
6 represent Industria de Alimentos Zenu, the plaintiff
7 in this action, and also Cordialsa, the
8 counter-defendant.

9 So on that day when the individual told
10 you about the products and told you to take them
11 down -- is that what you said earlier?

12 A. Yes, I said that, but I did not remove
13 them.

14 Q. Okay. And who did you say you worked
15 for?

16 A. For that person. What did I say? It
17 was that woman. What's her name? Maria Elena. I
18 don't remember what company she worked for.

19 Q. How do you know this man worked for
20 Maria Elena?

21 A. Because she comes to my store.

22 Q. Did he say he worked for her?

23 A. Well, yes, he was working with her for
24 some time.

25 Q. So have you ever seen him before that

1 day?

2 A. No.

3 Q. Then how did you know he worked with her
4 for some time?

5 A. Because she told me.

6 Q. So you talked to her, Maria Elena, about
7 this incident?

8 A. No. When Maria Elena was working with
9 that company, the Zenu brand was not there yet.

10 Q. Okay. Then how did you know that
11 Maria Elena had worked with that man before?

12 A. Because Maria Elena -- every salesperson
13 that comes to the store, they tell me what company
14 they're working for. They introduce themselves
15 first.

16 Q. Did that man tell you what company he
17 works for?

18 A. Yes, he told me.

19 Q. Okay. Did he speak to anyone else --
20 did you see him speak to anyone else that day?

21 A. No, with no one else.

22 Q. Was your manager in the store that day?

23 A. No.

24 Q. And was the manager at that time the
25 same manager you had the whole two years?

1 A. Yes.

2 Q. And what was his name?

3 A. The manager, I don't remember, but I
4 remember the owner's name is Elvis.

5 Q. Okay. Was anyone else standing nearby
6 when this man spoke to you about the new product?

7 A. No one. No one.

8 Q. How long was he in the store that day,
9 do you remember?

10 A. Around three minutes.

11 Q. And how long was he speaking to you
12 about?

13 A. Around one minute.

14 Q. What language did he speak to you in?

15 A. Spanish.

16 Q. And do you remember the exact words he
17 used to speak to you about the product?

18 A. Yes, he only said that I could not sell
19 that product and to remove it from the aisle.
20 Nothing else.

21 Q. Those were the only words he used?

22 A. That's all.

23 Q. Okay. You mentioned earlier that you
24 met Mr. Zuluaga prior to working at Food Fair.

25 Correct?

1 A. Yes. Correct.

2 Q. And you said that you asked him if he
3 sold Columbian products, and he said yes. Is that
4 right?

5 A. Correct.

6 Q. Does he only sell products made in
7 Columbia?

8 A. I never asked that. I don't -- I only
9 asked, but I don't know if they make them at Columbia
10 or not.

11 Q. And at Food Fair, Zenu products were in
12 the Latin food aisle. Correct?

13 A. Correct.

14 Q. And you said all the products in that
15 aisle or in that section are not made in the
16 United States?

17 A. No. Correct.

18 Q. So the products in that aisle are not
19 from the United States?

20 A. No.

21 Q. Sorry. I asked a negative, so the
22 answer is confusing.

23 Are all the products in that aisle made
24 outside of the United States?

25 MR. INGBER: Objection. Asked and

1 answered.

2 A. Outside of the United States.

3 Q. Thank you. I asked it a bad way the
4 first few times. Sorry.

5 So does that mean that Zenu products
6 were made outside of the United States?

7 A. I don't know.

8 Q. Did Mr. Zuluaga ever tell you that Zenu
9 products were made outside of the United States?

10 A. He never said that.

11 Q. Okay. So after the man told you to take
12 down the products, you never spoke to anyone else
13 about that conversation?

14 A. I didn't mention it to anyone.

15 Q. Okay. So that conversation did not have
16 any affect on whether Food Fair continued to sell the
17 products?

18 A. Nowhere.

19 Q. Okay. Have you spoken to Mr. Ingber
20 before today?

21 A. He only made a call to see if I could be
22 a witness, to see if I could testify, like to know if
23 someone had told me to remove the products. I mean,
24 if there was a witness, if I could come and testify.

25 Q. Okay. When did this call happen?

1 A. I don't remember when it was.

2 Q. Within the past week?

3 A. Honestly, I don't remember.

4 Q. In the past month?

5 A. Maybe. It's possible, but I don't know
6 when.

7 Q. Okay. After you spoke to Mr. Ingber,
8 did you speak to Mr. Zuluaga at all?

9 A. Never.

10 Q. Have you ever spoken to Mr. Zuluaga
11 about this litigation?

12 A. No.

13 Q. Have you ever spoken to Mr. Zuluaga
14 about this deposition?

15 A. Never because my job keeps me really
16 busy, and I don't have time for that.

17 Q. Okay. Mr. Ingber asked you if you know
18 whether these Zenu -- earlier Mr. Ingber asked you
19 if you know whether the Zenu and Ranchera products
20 are famous in the United States.

21 I believe that you said, honestly, no.
22 Is that correct?

23 A. Correct.

24 Q. When you said that, did you mean that
25 you do not know if they are famous in the

1 United States?

2 A. I don't know. No, I don't know.

3 MR. BERMAN: Okay. No further
4 questions.

5 EXAMINATION BY MR. INGBER:

6 Q. My name is Mr. Ingber. Have we ever
7 spoken before today?

8 A. No.

9 Q. So I never called you before. Is that
10 correct?

11 A. No, only a secretary called me to make
12 sure that I would show up. That's all.

13 Q. So this is the first we're ever speaking
14 today. Is that correct?

15 A. Correct.

16 MR. INGBER: Off the record.

17 (Off-the-record discussion.)

18 Q. Now, I want to repeat an earlier answer
19 you had given when I was asking you questions.

20 MR. INGBER: Can you read that in the
21 record?

22 Q. This is what you said.

23 (Testimony reread.)

24 Q. Is that your testimony?

25 A. Yes. But I did not remove them.

1 MR. INGBER: Okay. Thank you.

2 No further questions.

3 MR. BERMAN: Can I ask one more
4 question?

5 EXAMINATION BY MR. BERMAN:

6 Q. What exact word did you use? You
7 mentioned that he said something about them being
8 illegal.

9 Do you know the exact word he used?

10 MR. INGBER: Objection. Calls for
11 speculation. He said that they were illegal. You
12 are asking him what exact word he used. It's already
13 in the record.

14 MR. BERMAN: I'm curious about the
15 Spanish word.

16 Q. What exact Spanish word did he use that
17 caused you to say on the record that the products
18 were illegal?

19 A. He never said that the products were
20 illegal.

21 MR. BERMAN: Okay. No further
22 questions.

23 EXAMINATION BY MR. INGBER:

24 Q. Was there a Spanish word he used instead
25 of "illegal"?

1 MR. BERMAN: Objection. Asked and
2 answered.

3 A. No, I don't know very well.

4 Q. Your testimony is that -- you said on
5 the record is he only told me to remove that from the
6 shelf -- your testimony is, "He" -- "He only told me
7 to remove that from the shelf because he said that
8 didn't have -- well, that they were illegal. That's
9 all."

10 Is that correct?

11 A. That they were illegal?

12 Q. That's your testimony; "illegal"?

13 A. That the person told me?

14 Q. Yes.

15 A. No, he didn't say anything.

16 MR. INGBER: Okay. No further
17 questions.

18 (The proceedings concluded at
19 12:33 p.m.)
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VERITEXT LEGAL SOLUTIONS
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